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VIA ELECTRONIC FILING

Hon. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20024

November 13, 2008

Re BNSF Railway Company – Petition for Declaratory Order  
STB Finance Docket No. 35164

Dear Secretary Quinlan:

I am enclosing on behalf of the Oklahoma Department of Transportation ("ODOT"), a Supplemental Verified Statement of Gary M. Ridley. Although the comment period has ended, we are requesting that the Board accept and consider this Supplemental Verified Statement to respond to incorrect characterizations by Edwin Kessler of Mr. Ridley's original Verified Statement (submitted with BNSF's Supplemental Evidence). The Supplemental Verified Statement is limited to Mr. Kessler's characterizations of the use of the middle segment by Union Pacific Railway Kessler Reply, ¶¶ 11-14. Because Mr. Kessler's Reply was not posted on the Board's website until late on November 6, 2008, and Director Ridley has been out of the office for substantial periods of time since, we were not able to file this Supplemental Verified Statement before today.

As required by the Board's decision served October 2, 2008, copies of this letter are being served on BNSF's representative and on Edwin Kessler.

Respectfully,

Eric M. Hocky  
Attorney for Oklahoma  
Department of Transportation

Pittsburgh

Philadelphia

Princeton

Wheeling

Enclosure

cc Kristy D. Clark, BNSF Railway (w/encl.; by email)  
Edwin Kessler (w/encl., by US mail)

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Before the

**SURFACE TRANSPORTATION BOARD**

STB Finance Docket No 35164

**BNSF RAILWAY COMPANY – PETITION FOR DECLARATORY ORDER**

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**SUPPLEMENTAL VERIFIED STATEMENT OF  
GARY M. RIDLEY**

My name is Gary M Ridley I am currently the Director of the Oklahoma Department of Transportation ("ODOT"), having been appointed in August of 2001 In my position, I am personally familiar with the Oklahoma City I-40 highway project, and with the relocation projects of BNSF Railway Company ("BNSF") that are the subject of this proceeding. I have reviewed Mr Kessler's Reply to BNSF's Supplemental Evidence filed in connection with the Board's decision served October 2, 2008 (the "October 2 Decision") I am providing this Supplemental Verified Statement to correct errors in Mr Kessler's Reply as it relates to the Verified Statement I previously provided in compliance with the October 2 Decision to BNSF, and the documents provided therewith

In particular, Mr Kessler's Reply discusses his (mis)understanding of the possible use of the BNSF "middle segment" by Union Pacific Railway ("UP") See Kessler Reply at ¶¶ 11-14 The February 2008 plans as attached as Exhibit C to my Verified Statement and cited by Kessler, did at that time anticipate that UP would use the middle segment as a temporary detour while UP's own roughly parallel main line was being relocated to accommodate the I-40 highway project Contrary to the assertions by Mr Kessler, it was never anticipated that UP would perform any local service to or from the middle segment Nor was it contemplated that BNSF would be using the tracks at the same time as UP At the time the plans were being considered,

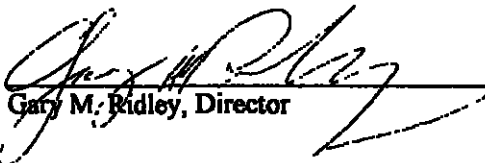
we believed that the Board would have determined that BNSF no longer had common carrier obligations with respect to the middle segment (In any event, as is clear from this proceeding and prior proceedings before the Board, no service has been provided to, from or over this segment for over two years )

Further, ODOT's plans with respect to the UP relocation plans have changed since February, 2008 <sup>1</sup> This change was not addressed in my Verified Statement because it was not responsive to the questions directed to ODOT by the Board ODOT's current proposal is to construct a UP "shoofly" in a different alignment that will not require UP to use the middle segment The new location would eliminate the need for the construction (and later removal) of a temporary retaining wall that would otherwise be required, and thus will save both time and several million dollars

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I hereby verify under penalty of perjury, that the foregoing Verified Statement is true and correct Further, I certify that I am qualified and authorized to file this Verification

Executed on November 13, 2008

  
Gary M. Ridley, Director

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<sup>1</sup> The Revised Financial Plan attached as Exhibit C to my Verified Statement makes clear that "projects are subject to change in size, scope or content. Any reconfiguration will be based upon field conditions, schedule changes or funding constraints "